

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PIPEFITTERS LOCAL NO. 636
PENSION FUND, et al.,

Plaintiffs,

Case No. 05-CV-74326

vs.

HON. GEORGE CARAM STEEH

MERCER HUMAN RESOURCE
CONSULTING, INC. and
TOWERS, PERRIN, FORSTER
& CROSBY, INC.,

Defendants.

_____ /

ORDER DENYING PLAINTIFFS' OBJECTIONS
TO MAGISTRATE'S ORDER ALLOWING DEFENDANT TO
FILE LATE NOTICE OF NONPARTY AT FAULT [DOC. 54]

This case comes before the Court on plaintiffs' objections to the order granting defendant's motion for leave to file notice of non-party fault entered by Magistrate Morgan on June 11, 2007. MCR 2.112(K)(3)(c) provides that late filing of a notice of nonparty fault is permitted on motion "on a showing that the facts on which the notice is based were not and could not with reasonable diligence have been known to the moving party earlier, provided that the late filing of the notice does not result in unfair prejudice to the opposing party."

Prior to discovery taking place, defendant might have known the identity of the investment advisor it named in the notice, but could not have known with reasonable diligence that the losses attributed to Towers Perrin's negligence were investment-related losses. The late-filed notice does not prejudice plaintiffs where discovery is on-

going and the non-party has been and continues to be associated with the Fund as its investment advisor.

The Magistrate Judge's order permitting the late filing of a notice of non-party fault is not clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1). Plaintiffs' objections are DENIED.

It is so ordered.

Dated: July 19, 2007

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on July 19, 2007, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk